

SECURITIES AND EXCHANGE COMMISSION

(Release No. 35-27976; International Release No. 1289; 70-10282)

E.ON AG, et al.

Order Authorizing Various Financing and Related Transactions; Reserving Jurisdiction

May 31, 2005

E.ON AG (“E.ON”), a registered holding company under the Public Utility Holding Company Act of 1935, as amended (“Act”), Düsseldorf, Germany, and certain of its direct and indirect utility and nonutility subsidiaries listed in the application-declaration, as amended (“Application”), including E.ON US Holding GmbH (“E.ON US Holding”), a registered holding company and a direct subsidiary of E.ON, also Düsseldorf, Germany, and the parent company of E.ON US Investments Corp. (“E.ON US Investments”), a registered holding company and parent of LG&E Energy LLC (“LG&E Energy”), a registered holding company and parent of Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”), all Louisville, KY (collectively, “Applicants”), have filed with the Securities and Exchange Commission (“Commission”) the Application under sections 6(a), 7, 9(a), 10, 12(b), 12(c), 12(d) and 13(b) of the Act and rules 20, 26, 42, 43, 45, 46, 52, 53, 87 and 90. The Commission issued a notice of the filing of the Application on April 27, 2005 (Holding Co. Act Release No. 27962).

Applicants request authority for financing and related transactions during the period commencing with the effective date of the order through May 31, 2008

(“Authorization Period”). E.ON and its related entities (together, “E.ON Group” or “Group”) previously received financing authorizations on June 14, 2002 (“2002 Order”).¹

I. Background

E.ON is headquartered in Düsseldorf, Germany, and most of its operations are located in Europe.² Applicants state that, in 2003, E.ON reorganized its structure to reflect its commitment to an integrated business focusing on power and gas.³

E.ON states that, as a result of its decision to focus on power and gas, in the last few years, its core energy business has been reorganized into five new market units, each of which is focused on a market in which E.ON believes it has a strong competitive position: (1) Central Europe, led by E.ON Energie AG (“E.ON Energie”); (2) Pan-European Gas, led by E.ON Ruhrgas AG (“E.ON Ruhrgas”); (3) U.K., led by E.ON UK

¹ E.ON AG, et al., Holding Co. Act Release No. 27539.

² Applicants state that E.ON had approximately 478,000 shareholders worldwide, as of December 31, 2004, and that E.ON’s shares, all of which are ordinary shares, are listed on all seven German stock exchanges. The shares are also actively traded over-the-counter in London and E.ON’s American Depositary Shares (“ADSs”), each of which represents one ordinary share, are listed on the New York Stock Exchange.

Applicants state that, unless otherwise noted, amounts expressed in United States dollars (“USD”) are unaudited and have been converted from Euros, for convenience, at an exchange rate of USD 1.3538 = EUR 1.00, the Noon Buying Rate of the Federal Reserve Bank of New York on December 31, 2004. For the year ending December 31, 2004, E.ON reported consolidated revenues of EUR 49.103 billion (USD 66.476 billion) calculated in accordance with U.S. generally accepted accounting procedures (“U.S. GAAP”). As of December 31, 2004, E.ON had total consolidated assets of EUR 114.062 billion (USD 154.417 billion).

³ Applicants state that E.ON’s “on*top” project was a comprehensive strategic review, the principle elements of which were an analysis of E.ON’s competitive position, the redefinition of its corporate strategy and the design of a revised organizational structure to reflect E.ON’s strategic goals. The on*top project, among other things, resulted in the transfer of management of LG&E Energy and its utility subsidiaries from Powergen Ltd. (“Powergen”) to E.ON. By order dated November 22, 2004, the Commission authorized Powergen’s deregistration under the Act, as well as the deregistration of its direct and

plc (“E.ON UK”); (4) Nordic, led by E.ON Nordic AB (“E.ON Nordic”); and (5) U.S. Midwest, led by LG&E Energy. E.ON’s non-U.S. business segments (E.ON Energie in Central Europe; E.ON Ruhrgas leading Pan-European Gas; E.ON UK in the U.K.; and E.ON Nordic in Northern Europe) are comprised in part of foreign utility companies, as defined in section 33 of the Act (“FUCOs”).

A. LG&E Energy and the U.S. Midwest Market Unit

E.ON US Holding is the direct subsidiary of E.ON and parent of E.ON US Investments (together with E.ON US Holding, “Intermediate Companies”), which is the direct parent of LG&E Energy, the holding company for LG&E and KU, E.ON’s United States utility subsidiaries (together, “Utility Subsidiaries”).⁴ E.ON US Holding, E.ON US Investments and LG&E Energy are registered holding companies. LG&E is an electric and natural gas utility based in Louisville, Kentucky⁵ and KU is an electric utility based in Lexington, Kentucky.⁶ Revenues from the U.S. Midwest market unit were USD

indirect parent holding companies, E.ON UK Holding GmbH and E.ON UK Holding Company Ltd. E.ON AG, et al., Holding Co. Act Release No. 27915.

⁴ LG&E Energy is also engaged in nonutility businesses, through wholly owned subsidiaries LG&E Capital Corp. (“LCC”) and LG&E Energy Marketing Inc. (“LEM”). LCC operates one oil-fired and nine coal-fired electricity generation units in western Kentucky through its wholly owned subsidiary Western Kentucky Energy Corp. and affiliates. In addition, through its subsidiaries, LCC operates several other independent power projects in the United States. LCC also owns interests in three Argentine gas distribution companies and stakes in two power plants in the United States through another wholly owned subsidiary, LG&E Power Inc. Applicants state that LG&E Energy is in the process of disposing of its stakes in the power plants held by LG&E Power Inc.

⁵ LG&E distributes electricity to approximately 384,000 customers and supplies natural gas to approximately 312,000 customers in Louisville and 17 surrounding counties.

⁶ KU serves approximately 482,000 customers in 77 Kentucky counties, approximately 30,000 customers in five counties in Virginia, as well as 12 municipalities and fewer than 10 customers in Tennessee.

2.590 billion (EUR 1.913 billion) for the period ending December 31, 2004, 3.9% of E.ON's consolidated revenues.

B. Subsidiaries To-Be-Divested

The to-be-divested E.ON subsidiaries ("TBD Subsidiaries") are those that E.ON is required to divest under the 2002 Order. E.ON currently holds a 42.9% interest in Degussa AG ("Degussa"), a specialty chemical company. E.ON recently announced that it anticipates the sale of Viterra AG ("Viterra"), E.ON's wholly owned real estate group (engaged in two businesses: residential real estate and real estate development) by July 2005. In the 2002 Order, E.ON was required to divest Degussa, Viterra and five passive real estate investment vehicles managed by Viterra within five years and E.ON states that it continues to expect to meet that requirement.⁷

II. Summary of the Request

Applicants state that E.ON follows a centralized financing policy and that, as a general rule, external financings will be undertaken at the E.ON level (or through finance

⁷ On May 17, 2005, E.ON announced an agreement to sell Viterra to Deutsche Annington GmbH for a total value of approximately EUR 7 billion (comprised of approximately EUR 4 billion in equity and approximately EUR 3 billion in net debt and various other provisions). E.ON states that the Viterra sale requires approval from antitrust authorities. The 2002 Order also required the divestiture of several other E.ON subsidiaries within three years. Since the 2002 Order, E.ON has divested VEBA Oel AG, Viterra Energy Services, Inc., Stinnes AG, Schmalbach Lubeca AG and the other companies E.ON was required to divest within three years, with the exception of AV Packaging and Hibernia Gamma Beteiligungsgesellschaft mbH. E.ON states that it intends to divest AV Packaging and Hibernia Gamma Beteiligungsgesellschaft mbH by July 1, 2005, the three-year anniversary of E.ON's registration under the Act. From January 1, 2002 to December 31, 2004, E.ON's aggregate proceeds from the divestitures were approximately EUR 22.700 billion.

subsidiaries under its guarantee).⁸ In certain limited circumstances, future external financings may also take place at the subsidiary level. Generally, over time, E.ON intends to refinance outstanding external subsidiary debt that is not consistent with the group financing policy as it comes due with intercompany loans.⁹ E.ON also states, however, that the financing of joint ventures or partially owned companies is generally concluded externally.

Applicants request the following financing authorizations, and authorizations for certain related actions, for the period beginning with the effective date of this order through May 31, 2008 (the Authorization Period).

1. For E.ON, authority to issue and sell equity and certain debt securities, directly or indirectly, in new financing transactions, in an aggregate amount of up to USD 75 billion at any one time outstanding (and which transactions are also subject to the E.ON External Limit, the E.ON Short-term Limit and the E.ON Guarantee Limit (all further described below)):
 - (a) equity and unsecured long-term debt securities in an aggregate amount of up to USD 50 billion at any one time outstanding (exclusive of short-term debt and guarantees) (“E.ON External Limit”) (reserving over USD 20 billion), including, but not limited to,
 - (i) common stock and ADSs, preferred stock, preferred securities, equity-

⁸ Applicants state that most of the financing transactions of E.ON’s market units have been centralized and netted at the parent, or at a direct wholly owned finance subsidiary of the parent, to reduce the Group’s overall debt and interest expense.

⁹ Applicants state that E.ON’s aim is to maximize its financing efficiency and minimize structural subordination issues that would arise if significant external debt was held at the operating subsidiary level.

linked securities, options, warrants, purchase contracts, units, securities with call and put options and securities convertible into any of these securities;

(ii) unsecured long-term debt, including, among other things, subordinated debt and bank borrowings;

(b) unsecured short-term debt in an aggregate amount of up to USD 30 billion at any one time outstanding (“E.ON Short-term Limit”) (reserving over USD 18 billion); and

(c) guarantees, and other credit support, in an aggregate amount of up to USD 40 billion at any one time outstanding (exclusive of guarantees exempt under rules 45(b) and 58(a)(1)) (“E.ON Guarantee Limit”).

2. For E.ON (for itself and on behalf of its subsidiaries) and for its subsidiaries, authority to engage in currency and interest rate transactions for the purpose of hedging (“Hedging Interests”) and certain debt and equity transactions for the purpose of engaging in anticipatory hedging (“Anticipatory Hedging Transactions”), subject to certain limitations.
3. For E.ON and its subsidiaries, authority to continue utilizing certain profit and loss transfer agreements and the consolidated tax filing of E.ON and its German subsidiaries in the manner authorized by the 2002 Order.
4. For E.ON and the E.ON Group (other than the LG&E Group), authority:
 - (a) to finance the TBD Subsidiaries and E.ON’s nonutility subsidiaries not held either within a FUCO group or within the LG&E Energy Group

(“Retained Nonutility Subsidiaries”) through capital contributions, loans, guarantees, purchases of equity or debt securities or other methods:

(i) in an aggregate amount of up to USD 500 million through July 1, 2007 (the end of the divestiture period) for TBD Subsidiary investments (“TBD Investment Limit”); and

(ii) in an aggregate amount of up to USD 15 billion for Retained Nonutility Subsidiary investments (“Retained Nonutility Subsidiary Investment Limit”); and

(b) For the Retained Nonutility Subsidiaries, to finance their businesses and acquire new businesses (as permitted under the Act, the rules or by Commission order) through the issuance of equity, preferred stock and debt securities to third parties, subject to the Retained Nonutility Subsidiary Investment Limit.

5. For E.ON through the Intermediate Companies (E.ON US Holding and E.ON US Investments) and through the related financing subsidiaries, authority to finance the Intermediate Companies and LG&E Energy and its subsidiaries (including LG&E and KU) (together, “LG&E Energy Group”) by:

(a) issuance and sale of securities to E.ON and associate companies (but not companies in the LG&E Energy Group);

(b) For E.ON North America Inc. (“E.ON NA”) and Fidelia Corp. (“Fidelia”) (and any of their subsidiaries), issuance and sale of securities to third parties, such as banks, to finance the capital needs of the E.ON Group, including the LG&E Energy Group;

- (c) For the Intermediate Companies and their subsidiaries, acquisition of securities of other Intermediate Companies and their subsidiaries and the LG&E Energy Group;
- (d) For the Intermediate Companies and their subsidiaries, issuance of guarantees and other forms of credit support to or for the benefit of another Intermediate Company, its subsidiaries and the LG&E Energy Group, subject to an aggregate amount of up to USD 2 billion at any one time outstanding (exclusive of guarantees exempt under rules 45(b) and 58(a)(1)); and
- (e) For the LG&E Energy Group, including LG&E and KU, authority,
 - (i) For LG&E Energy, to issue and sell short-term debt securities in an aggregate amount of up to USD 400 million;
 - (ii) For each of LG&E and KU,
 - (a) to issue and sell long-term debt securities having a maturity of two years or less in an aggregate amount of up to USD 400 million and USD 400 million, respectively;
 - (b) to issue and sell short-term debt securities in an aggregate amount of up to USD 200 million and USD 200 million, respectively;
 - (c) to continue to obtain secured intercompany loans from Fidelity in an aggregate amount of up to USD 275 million and USD 215 million, respectively;

- (d) to guarantee, or provide other credit support, for the obligations of their subsidiaries and other companies in which they have invested (but not exempt wholesale generators, as defined in section 32 of the Act (“EWGs”), exempt telecommunications companies, as defined in section 34 of the Act (“ETCs”), or FUCOs), in an amount of up to USD 200 million and USD 200 million, respectively;
- (iii) For LG&E Energy and its nonutility subsidiaries, to enter into intercompany loans in an aggregate amount of up to USD 1.5 billion (excluding amounts exempt under rules 45(b) and 52) at any one time outstanding;
- (iv) For LG&E Energy to issue guarantees and other credit support in an aggregate amount of up to USD 1.5 billion at any one time outstanding (excluding amounts exempt under rule 45(b) and separate from E.ON’s External Limit and E.ON’s Guarantee Limit); and
- (v) For the LG&E Energy Group nonutility subsidiaries, to issue guarantees and other credit support in an additional aggregate amount of up to USD 1.5 billion at any one time outstanding (exclusive of guarantees that may be exempt under rule 45(b) and separate from E.ON’s External Limit and E.ON’s Guarantee Limit).
6. For Applicants to continue the existing money pools and intercompany financing arrangements.

7. For Applicants, authority to form financing entities (“Financing Entities,” as defined below) and engage in related transactions.
8. For Applicants, authority for each company in the E.ON Group (other than EWGs, FUCOs and ETCs), to acquire, redeem or retire its securities (or those of its direct and indirect subsidiaries), either outstanding now or issued and sold in the future, from time to time.
9. For Applicants to continue authority to change the terms of any E.ON Group company’s authorized capital stock, issue additional shares, or alter of the terms of any existing authorized security.
10. For TBD Subsidiaries, Retained Nonutility Subsidiaries, Intermediate Companies and LG&E Energy Group companies (excluding the Utility Subsidiaries), authority to continue to pay dividends out of capital or unearned surplus.
11. For Applicants, authority to restructure, consolidate or otherwise reorganize, E.ON’s nonutility holdings, which may include the acquisition, directly or indirectly, of securities of one or more intermediate subsidiaries organized exclusively for the purpose of acquiring, financing, divesting and/or holding the securities of one or more existing or future nonutility subsidiaries (“Development Subsidiaries”).¹⁰

¹⁰ Development Subsidiaries may also engage in development activities (“Development Activities”) and administrative activities (“Administrative Activities”) relating to the permitted businesses of the nonutility subsidiaries.

12. For Applicants, authority to continue to invest in EWGs and FUCOs up to an aggregate amount of USD 65 billion (“Aggregate EWG/FUCO Financing Limitation”).
13. For Applicants, authority to invest in energy-related companies doing business outside the U.S. (“Energy-Related Subsidiaries”) in an aggregate amount of up to USD 10 billion (“Energy-Related Subsidiary Investment Limit”).

III. Financing Parameters

Applicants represent that the following general terms will be applicable, where appropriate, to the external financing transactions requested in the Application.

A. Effective Cost of Money

Applicants state that the effective cost of money for long-term debt, short-term debt, preferred stock, preferred securities and equity-linked securities issued by E.ON, LG&E Energy and the Utility Subsidiaries will not exceed competitive market rates available at the time of issuance for securities having the same or reasonably similar terms and conditions issued by similar companies of reasonably comparable credit quality; provided that in no event will the effective cost of capital (i) on any such long-term debt securities exceed at the time of issuance 500 basis points over comparable term German or U.S. government-issued securities or other government benchmark for the currency concerned (“Treasury Securities”); or (ii) on any such short-term debt securities exceed at the time of issuance 300 basis points over the London Interbank Offered Rate; and, further, the dividend and distribution rate on any series of preferred stock, preferred securities or equity-linked securities will not exceed at the time of issuance 700 basis points over Treasury Securities.

Applicants request that the Commission reserve jurisdiction over issuances of long-term debt, short-term debt, preferred stock, preferred securities and equity-linked securities by E.ON, LG&E Energy and the Utility Subsidiaries, where the cost of capital is in excess of the limits stated above but is not more than competitive market rates available at the time of issuance for securities having the same or reasonably similar terms and conditions issued by similar companies of reasonably comparable credit quality, until the record is complete with regard to such issuances.

B. Maturity

Applicants state that the maturity of long-term debt will be between one and 50 years after issuance. Preferred securities and equity-linked securities will be redeemed no later than 50 years after issuance, unless converted into common stock. Preferred stock issued directly by E.ON may be perpetual in duration. Short-term debt will have an original maturity of less than one year.

C. Issuance Expenses

Applicants state that the underwriting fees, commissions or other similar remuneration paid in connection with the non-competitive issue, sale or distribution of securities will not exceed the greater of: (i) 5% of the principal or total amount of the securities being issued; or (ii) issuance expenses that are generally paid at the time of the pricing for sales of the particular issuance, having the same or reasonably similar terms and conditions issued by similar companies of reasonably comparable credit quality.

D. Common Equity Ratio and Investment Grade Ratings

E.ON and LG&E Energy, each on a consolidated basis, and LG&E and KU individually will maintain common stock equity as a percentage of total capitalization of

at least 30%, as reflected in their most recent annual or semiannual report, in the case of E.ON, and, with respect to LG&E Energy and the Utility Subsidiaries, quarterly financial statements prepared in accordance with US GAAP; provided that E.ON in any event will be authorized to issue common stock to the extent permitted as a consequence of this Application.

Applicants further represent that, except for securities issued in connection with money pool operations, no guarantees or other securities, other than common stock, may be issued in reliance upon the authorization granted by the Commission pursuant to the Application unless: (i) the security to be issued, if rated, is rated investment grade; (ii) all outstanding securities of the issuer that are rated, are rated investment grade; and (iii) all outstanding securities of E.ON that are rated, are rated investment grade. For purposes of this provision (“Investment Grade Condition”), a security will be deemed to be rated “investment grade” if it is rated investment grade by at least one nationally recognized statistical rating organization (“NRSRO”), as that term is used in paragraphs (c)(2)(vi)(E), (F) and (H) of rule 15c3-1 under the Securities Exchange Act of 1934, as amended.

Applicants request that the Commission reserve jurisdiction over the issuance of any guarantee or other securities in reliance upon the authorization granted by the Commission pursuant to the Application at any time that the conditions set forth in clauses (i) through (iii) above are not satisfied.

E. Use of Proceeds

Applicants state that the proceeds from the proposed financings will be used for general corporate purposes, including: (i) financing investments by, and capital

expenditures of, the E.ON Group; (ii) the funding of future investments in companies that are exempt under the Act or the rules or are permitted by Commission order, including EWGs, FUCOs, TBD Subsidiaries, ETCs and Rule 58 Subsidiaries (as defined below); (iii) the repayment, redemption, refunding or purchase by any E.ON Group company of any of its own securities; (iv) financing or refinancing capital requirements of the E.ON Group; and (v) other lawful purposes. Applicants represent that no financing proceeds will be used to acquire the equity securities of any company unless the acquisition has been approved by the Commission or is in accordance with an available exemption under the Act or rules, including sections 32, 33, 34 and rule 58.

IV. The Transactions

Applicants request the following authorizations during the Authorization Period as described below.

A. E.ON External Financing and Related Transactions

E.ON requests authorization to increase its capitalization through the issuance and sale of securities, including, but not necessarily limited to, common stock, preferred stock, preferred securities, equity-linked securities, options, warrants, purchase contracts, units (consisting of one or more purchase contracts, warrants, debt securities, shares of preferred stock, shares of common stock or any combination of such securities), long-term debt, subordinated debt, lease financing, bank borrowings, securities with call or put options, and securities convertible into any of these securities, up to an aggregate amount of new financing not to exceed USD 50 billion outstanding at any one time (exclusive of short-term debt and guarantees), the E.ON External Limit, during the Authorization Period; provided that securities issued for purposes of refunding or replacing other

outstanding securities (where E.ON's capitalization is not increased as a result) shall not be counted against this limitation.¹¹ E.ON further proposes that issuances subject to the E.ON External Limit (an aggregate limit of USD 50 billion), the E.ON Short-term Limit (an aggregate limit of USD 30 billion) and the E.ON Guarantee Limit (an aggregate limit of USD 40 billion) would not, in the aggregate, exceed USD 75 billion, during the Authorization Period.¹²

E.ON further requests that: (i) with respect to the E.ON External Limit, the Commission reserve over USD 20 billion and (ii) with respect to the E.ON Short-term Limit, the Commission reserve over USD 18 billion, pending completion of the record.

A.1. Common Stock, Preferred Stock, Preferred Securities and Equity-linked Securities

E.ON requests authorization to issue and sell common stock, options, warrants or other stock purchase rights exercisable for common stock.¹³ E.ON also proposes to issue common stock and/or purchase shares of its common stock (either currently or under forward contracts) in the open market or through negotiated purchases for purposes of: (i) reissuing such shares at a later date pursuant to stock-based plans maintained for stockholders, employees and directors; or (ii) managing its capital structure. E.ON further requests authorization to use its common stock and other equity instruments to

¹¹ These financing transactions will be valued at the time of issuance.

¹² See the 2002 Order note 1 above. The 2002 Order also placed an overall limit on E.ON's external financing of USD 75 billion, which also applied to E.ON's aggregate issuances of equity, long- and short-term debt securities and guarantees.

¹³ Public distributions may be pursuant to private negotiation with underwriters, dealers or agents, or effected through competitive bidding among underwriters. In addition, sales may be made through private placements or other non-public offerings to one or more persons.

fund employee benefit plans and in connection with dividend reinvestment plans that are now in existence or may be formed during the Authorization Period.¹⁴

E.ON also requests authorization to issue preferred stock directly and/or to issue, indirectly, through one or more financing subsidiaries, other forms of preferred securities (including, without limitation, trust preferred securities or monthly income preferred securities), equity-linked securities in the form of stock purchase units (which combine a security with a fixed obligation, e.g., preferred stock or debt, with a stock purchase contract that is exercisable either mandatorily or at the option of the holder or a combination of both, within a relatively short period, e.g., three to six years after issuance). Applicants state that these transactions will be subject to the E.ON External Limit.¹⁵

A.2. Long-term Debt

E.ON also requests authorization to issue unsecured long-term debt either directly, through a public or private placement, or indirectly, through one or more Financing Entities. The debt may be in the form of notes, convertible notes, medium-term notes or debentures under one or more indentures or it may be indebtedness under agreements with banks or other institutional lenders. Applicants state that maturity dates, interest rates, redemption and sinking fund provisions, conversion features (if any), for long-term debt (or any series), and any associated fees, commissions and discounts (if

¹⁴ E.ON states that its stock-based compensation plan issues stock appreciation rights, as authorized by the Commission's 2002 Order, and E.ON proposes to issue shares of its common stock to satisfy its obligations under its stock-based plans, as they may be amended or extended, and for similar future plans or plan funding arrangements without additional Commission order.

¹⁵ The Commission is reserving over USD 20 billion of the E.ON External Limit, pending completion of the record.

any), will be established by negotiation or competitive bidding at the time of issuance. Applicants state that these transactions will be subject to the E.ON External Limit.¹⁶

A.3. Short-term Debt

E.ON requests authority to issue and sell from time to time, directly or indirectly through one or more Financing Entities, unsecured short-term debt, including commercial paper and bank borrowings, in an aggregate principal amount at any time outstanding not to exceed USD 30 billion, the E.ON Short-term Limit;¹⁷ provided that securities issued for purposes of refunding or replacing other outstanding short-term debt securities (where E.ON's capitalization is not changed as a result) shall not be counted against this limitation.

E.ON requests further authorization to issue and sell, from time to time, directly or indirectly through one or more Financing Entities, unsecured short-term debt, an aggregate amount at any time outstanding of up to the E.ON Short-term Limit, in the form of commercial paper, notes issued to banks and other institutional lenders, and other forms of unsecured short-term indebtedness. Applicants state that short-term borrowings under credit lines will have original maturities of less than one year from the date of each borrowing.

A.4. Interest Rate, Currency and Certain Equity Risk Management Devices

E.ON, for itself and the E.ON Group, requests authorization to enter into, perform, purchase and sell financial instruments intended to manage the volatility of interest rates and currency exchange rates, including but not limited to swaps, caps,

¹⁶ See note 15 above.

¹⁷ The Commission is reserving over USD 18 billion of the E.ON Short-term Limit, pending completion of the record.

floors, collars and forward agreements or any other similar agreements (“Hedging Instruments”), subject to certain limitations and restrictions. E.ON states that, for hedging, Applicants use established and commonly used instruments with sufficient market liquidity. E.ON states that Applicants will employ Hedging Instruments to manage prudently the risk associated with outstanding debt issued by it or any of its associate companies authorized by the Commission, or otherwise, by, for example: (i) converting variable rate debt to fixed rate debt; (ii) converting fixed rate debt to variable rate debt; (iii) limiting the impact of changes in interest rates resulting from variable rate debt; and (iv) providing an option to enter into interest rate swap transactions in future periods for planned issuances of debt securities.

E.ON also proposes to enter into Hedging Instruments with respect to anticipated debt or equity offerings (“Anticipatory Hedges”), subject to certain limitations and restrictions. Anticipatory Hedges would be used to fix and/or limit an equity or interest rate risk or currency exchange rate risk associated with any proposed new issuance.¹⁸ Applicants state that transactions would be entered into either on-exchange or, with Approved Counterparties, off-exchange.

¹⁸ Applicants state that Anticipatory Hedges may include: (i) a forward sale of U.S. or European Economic Area (“EEA”) Treasury futures contracts, U.S. or EEA Treasury obligations and/or a forward swap (each a “Forward Sale”); (ii) the purchase of put options on U.S. or EEA Treasury obligations (“Put Options Purchase”); (iii) a Put Options Purchase in combination with the sale of call options on U.S. or EEA Treasury obligations (“Zero Cost Collar”); (iv) transactions involving the purchase or sale of U.S. or EEA Treasury obligations; or (v) some combination of a Forward Sale, Put Options Purchase, Zero Cost Collar and/or other derivative or cash transactions, including, but not limited to, structured notes, caps and collars, appropriate for the Anticipatory Hedges. E.ON also states that it may enter into Anticipatory Hedges with respect to issuances of equity securities to protect against fluctuations in proceeds expected from a future equity offering.

E.ON's subsidiaries also propose to enter into Hedging Instruments or Anticipatory Hedges to hedge interest rate or currency exposures, subject to the same limitations as E.ON.

E.ON states that all transactions in Hedging Instruments and Anticipatory Hedges will be matched to an underlying business purpose. E.ON further states that it and the other Applicants will not enter into transactions in Hedging Instruments or Anticipatory Hedges for speculative purposes and that Applicants will comply with applicable standards relating to accounting for derivative transactions as are adopted and implemented by the Financial Accounting Standards Board ("FASB") or under International Financial Reporting Standards, should E.ON choose to adopt International Accounting Standards ("IAS"). E.ON further states that, in the event IAS is followed, E.ON's financial statements filed with the Commission will contain a reconciliation of differences between IAS and U.S. GAAP, as required by SEC Form 20-F. E.ON further states that Applicants will also comply with any existing or future applicable financial disclosure requirements associated with hedging transactions.

A.5. Guarantees

E.ON requests authorization to provide guarantees with respect to debt securities or other contractual obligations of any subsidiary, as may be appropriate in the ordinary course of the subsidiary's business, up to an aggregate principal or nominal amount not to exceed USD 40 billion at any one time outstanding (the E.ON Guarantee Limit),¹⁹

¹⁹ Applicants also note, in relation to the E.ON Nonutility Money pool, that due to certain developments under German law, E.ON has guaranteed, among other things, obligations of certain E.ON companies (that administer cash management transactions), in particular E.ON Finance GmbH, in connection with money pool transactions with E.ON Group companies in Germany, in the amount of approximately EUR 11 billion (USD 14.9

exclusive of any guarantees and other forms of credit support that are exempt under rules 45(b) and 52(b); provided, however, that the amount of guarantees in respect of obligations of any EWGs and FUCOs or companies engaged or formed to engage in proposed energy-related businesses, and companies exempt under rule 58 under the Act (“Rule 58 Subsidiaries”) shall remain subject to the limitations of rules 53(a)(1) and 58(a)(1), as applicable.

E.ON requests authorization for the E.ON Group (other than the LG&E Energy Group) to charge each subsidiary (other than an LG&E Energy Group company), a fee for the period of time that a guarantee is outstanding, the fee to be based upon market rates, which take into account credit risk, where it may be necessary to operate the subsidiaries efficiently under applicable regulations.²⁰ E.ON represents that the amount of guarantees for obligations of any Rule 58 Subsidiaries shall remain subject to the limitations of rule 58(a)(1).

A.6. Profit and Loss Transfer Agreements

Applicants request that the Commission continue to authorize the profit and loss

billion). Applicants state that this development affects corporations founded under German law and seated in Germany and that, as a result, E.ON will not issue guarantees with respect to the operation of the Utility Money Pool or the U.S. Nonutility Money Pool.

²⁰ Where regulations are not applicable, or for any guarantee of an LG&E Energy Group company, E.ON may charge the subsidiary a fee for each guarantee that is not greater than the cost, if any, of obtaining the liquidity necessary to perform the guarantee (for example, bank line commitment fees or letter of credit fees, plus other transactional expenses) for the period of time that it remains outstanding.

transfer agreements of E.ON and its German subsidiaries.²¹

B. Subsidiary Financing and Related Transactions

B.1. TBD Subsidiaries and Retained Nonutility Subsidiaries

The E.ON Group (other than the LG&E Energy Group) requests authorization to finance the TBD Subsidiaries and Retained Nonutility Subsidiaries through capital contributions, loans, guarantees, purchase of equity or debt securities or other methods throughout the Authorization Period. The Retained Nonutility Subsidiaries also propose to finance their respective businesses and the acquisition of new businesses (as permitted under the Act or the rules or by Commission order), through the issuance of equity, preferred stock and debt securities to third parties.

Applicants propose, in connection with the financing of the TBD Subsidiaries, that they be authorized to make investments in an aggregate amount of up to USD 500 million (the TBD Investment Limit), through July 1, 2007 (the end of the divestiture period). In addition, Applicants propose that financing of, and investments in, the Retained Nonutility Subsidiaries, be authorized in an aggregate amount of up to USD 15 billion.

B.2. LG&E Energy Group Companies and the Intermediate Companies

E.ON owns LG&E Energy through the Intermediate Companies, E.ON US Holding and E.ON US Investments, which are registered holding companies under the

²¹ The profit and loss transfer agreements allow E.ON to cause the subsidiaries to distribute their profits or to hold them as retained earnings. If the subsidiaries have losses, E.ON assumes the losses. Because a profit and loss transfer agreement is in some respects like a financial guarantee from a parent to its subsidiary, E.ON will continue to treat its net exposure under the agreements as a guarantee subject to the E.ON Guarantee Limit. See also the 2002 Order, note 1 above.

Act. E.ON US Holding also owns Fidelia, a Financing Entity, and E.ON US Investments owns E.ON NA and its subsidiaries, which also function as Financing Entities.

To finance the LG&E Energy Group and/or the Intermediate Companies and their subsidiaries, Applicants request authorization for the Intermediate Companies and their subsidiaries to issue and sell securities to E.ON and associate companies, but not companies in the LG&E Energy Group.

In addition, authorization is requested for E.ON NA and Fidelia (and any of their subsidiaries) to issue securities to third parties, such as banks, to finance the capital needs of the E.ON Group, including the LG&E Energy Group. Applicants also request authorization for the Intermediate Companies and their subsidiaries to acquire securities of other Intermediate Companies and their subsidiaries and the LG&E Energy Group companies.

The Intermediate Companies and their subsidiaries also seek authorization to issue guarantees, and other forms of credit support, to or for the benefit of another Intermediate Company, its subsidiaries and the LG&E Energy Group companies. Applicants state that, in no case would an Intermediate Company borrow, or receive any extension of credit or indemnity from any LG&E Energy Group company or its subsidiaries, except that an Intermediate Company may borrow from its direct or indirect Financing Entity that is not part of the LG&E Energy Group.

In addition, authority is requested for the Intermediate Companies, E.ON NA and Fidelia, and their respective subsidiaries, to guarantee the indebtedness or contractual obligations of, and to otherwise provide credit support to, their respective associate subsidiary companies up to an aggregate amount of external guarantees not exceed USD

2 billion outstanding (exclusive of any guarantees and other forms of credit support that are exempt under rules 45(b) and 52(b)); provided, however, that the amount of guarantees for obligations of any Rule 58 Subsidiaries shall remain subject to the limitations of rule 58(a)(1). Applicants state that, for reasons of economic efficiency, the terms and conditions of any financings between an Intermediate Company (or E.ON NA and Fidelity) and its direct or indirect parent, or between an Intermediate Company and a FUCO subsidiary or their associate company subsidiaries, will be on market terms. Applicants state that market rate financing assures that intercompany loans will not be used to transfer profits from one related entity to another and will also allow the lending entity to recover its true costs of liquidity, risks associated with credit quality and interest rate and currency variability.

B.2.a. LG&E Energy Short-term Debt

LG&E Energy requests authorization to obtain funds through the issuance of external short-term debt securities in an aggregate amount of up to USD 400 million, to meet its funding requirements.

B.2.b. Utility Subsidiary Debt, Intercompany Loans and Guarantees

LG&E and KU request authorization to issue certain long-term and short-term debt securities having maturities of two years or less in an aggregate amount of up to USD 400 million at any one time outstanding for each of LG&E and KU (to the extent their financing is not exempt under rule 52(a), or otherwise), as each may deem appropriate in light of its needs and market conditions at the time of issuance, subject to the applicable financing parameters.

Applicants also request that LG&E and KU be authorized, up to amounts of USD 275 million and USD 215 million, respectively, to obtain secured intercompany loans from Fidelia, as currently authorized, through the Authorization Period.²² In addition, authorization is requested for Fidelia to provide intercompany loans to LG&E and KU on a secured basis.

Utility Subsidiaries also seek authorization, up to an amount of USD 200 million in the case of LG&E and USD 200 million in the case of KU, to guarantee, or otherwise provide credit support for, the obligations of their subsidiaries and other companies in which they have invested (but not EWGs, ETCs or FUCOs), to the extent not exempt under rule 45. Applicants represent that any guarantee of an obligation of an EWG, FUCO or ETC will be undertaken only if the investment is authorized under sections 32, 33 or 34 of the Act, applicable rules, and/or Commission order.

Applicants request that the Utility Subsidiaries be permitted to charge each subsidiary a fee for each guarantee provided on the subsidiary's behalf that is not greater than the cost, if any, of the liquidity necessary to perform the guarantee. Applicants further state that guarantees issued by Utility Subsidiaries will not be secured by any utility assets.

B.2.c. Certain Other LG&E Energy Group Subsidiary Transactions

E.ON, E.ON NA and Fidelia (or a special purpose financing subsidiary) request authorization to finance all or a portion of the capital needs of the LG&E Energy Group

²² LG&E and KU request authorization under section 12(d) of the Act and rule 43 to secure these intercompany loans with a subordinated lien on certain property of the respective company, including "utility assets" within the meaning of the Act, as the Commission previously authorized, through May 31, 2005. See E.ON, et al., Holding Co. Act Release No. 27711 (Aug. 15, 2003).

companies directly, or indirectly through other E.ON Group companies, including the Intermediate Companies, at the lowest practical cost. Companies in the LG&E Energy Group propose to borrow funds from other E.ON Group companies that may have available surplus funds.

Applicants state that, except for the secured intercompany loans, described above, the borrowings will be unsecured and, in all cases, the borrowings will only occur if the interest rate on the loan would result in an equal or lower cost of borrowing than the LG&E Energy Group company could obtain in a loan from E.ON or in the capital markets on its own.²³ Applicants state that borrowings by LG&E Energy Group companies would comply, at a minimum, with the financing parameters.

Applicants request authorization for intercompany loans between LG&E Energy and its nonutility subsidiaries in an amount of up to USD 1.5 billion at any one time outstanding during the Authorization Period. Applicants state that this intrasystem financing amount would exclude financing exempt under rules 45(b) and 52. They further state that LG&E Energy will not borrow funds from its subsidiary companies and that the terms and conditions of intercompany loans available to any borrowing company will be materially no less favorable than the terms and conditions of loans available to the borrowing company from third-party lenders. In addition, all intercompany loans will be payable on demand or have a maturity of less than 50 years from the date of issuance.

²³ Applicants state that, consequently, all borrowings by an LG&E Energy Group company from an associate company would be at the lowest of: (i) E.ON's effective cost of capital; (ii) the lending associate's effective cost of capital (if lower than E.ON's effective cost of capital); and (iii) the borrowing LG&E Energy Group's effective cost of capital determined by reference to the effective cost of a direct borrowing by the company from a nonassociate for a comparable term loan that could be entered into at that time (Best Rate Method).

Applicants also request authorization for LG&E Energy and the LG&E Energy Group nonutility subsidiaries to enter into guarantees, extend credit, obtain letters of credit, enter into guarantee-type expense agreements and otherwise to provide credit support for the obligations, from time to time, of the LG&E Energy Group companies during the Authorization Period, specifically:

- (a) for LG&E Energy, in an aggregate amount of up to USD 1.5 billion outstanding at any one time (exclusive of guarantees that may be exempt under rule 45(b)); and
- (b) for the LG&E Energy Group nonutility subsidiaries, in an additional aggregate amount of up to USD 1.5 billion outstanding at any one time (exclusive of guarantees that may be exempt under rule 45(b)).

Applicants state that these requests are separate from E.ON's External Limit and E.ON's Guarantee Limit.

C. Continuation of Money Pools

Applicants request authorization to continue to operate three money pools.²⁴ The three money pools are the Utility Money Pool,²⁵ the U.S. Nonutility Money Pool²⁶ and

²⁴ See 2002 Order (as modified for the E.ON Nonutility Money Pool in E.ON, et al., Holding Co. Act Release No. 27788 (Dec. 29, 2003)).

²⁵ The Utility Money Pool includes only Utility Subsidiaries, as borrowers from and lenders to the pool. E.ON, E.ON NA, Fidelity and LG&E Energy may lend to, but not borrow from, the Utility Money Pool. LG&E Energy Services Inc. ("LG&E Services") will continue to act as the administrator of the Utility Money Pool.

²⁶ The U.S. Nonutility Money Pool includes the nonutility subsidiaries as borrowers from and lenders to the pool. E.ON, E.ON NA, Fidelity and LG&E Energy may lend to, but not borrow from, the U.S. Nonutility Money Pool. LG&E Services will continue to act as the administrator of the U.S. Nonutility Money Pool.

the E.ON Nonutility Money Pool.²⁷

Applicants state that Utility Subsidiaries' borrowings from the Utility Money Pool would be counted against their overall short-term borrowing limits stated above. The U.S. Nonutility Money Pool will be operated on substantially the same terms and conditions as the Utility Money Pool. The E.ON Nonutility Money Pool is administered by E.ON Finance GmbH.²⁸

D. Acquisition, Redemption or Retirement of Securities

Applicants request authorization for each company in the E.ON Group, other than EWGs, FUCOs and ETCs, to acquire, redeem or retire its securities or those of its direct and indirect subsidiaries, which securities may be either outstanding presently or issued and sold in the future from time to time during the Authorization Period. Applicants state that these transactions will be undertaken at either the competitive market prices for the securities or at the stated price for those securities, as applicable, and that Utility Subsidiaries will acquire, retire or redeem securities only in accordance with rule 42.

E. Financing Entities

Applicants also request authorization for the E.ON Group companies, except the EWGs, FUCOs and ETCs, to organize new or use existing corporations, trusts, partnerships or other entities ("Financing Entities"), to finance the business of the respective parent company or its subsidiaries. Applicants state that a Financing Entity would be used to finance the authorized or permitted businesses of its direct or indirect

²⁷ The E.ON Nonutility Money Pool may include all E.ON Group companies as borrowers from and lenders to the pool, except E.ON, the Intermediate Companies, and the LG&E Energy Group. E.ON and the Intermediate Companies may lend to, but not borrow from, the E.ON Nonutility Money Pool.

²⁸ E.ON, et al., Holding Co. Act Release No. 27788 (Dec. 29, 2003).

parent company, including the businesses of the LG&E Energy Group, but in no event would a Financing Entity engage in prohibited upstream loans involving companies in the LG&E Energy Group.²⁹

Applicants also request authority to issue securities to a Financing Entity to evidence the transfer of financing proceeds by a Financing Entity to a company receiving financing. In addition, Applicants request authority to enter into support or expense agreements on market price terms with Financing Entities to pay the expenses of any of these entities.

F. Changes in Capital Stock of Subsidiaries

Applicants request authority to change the terms of any subsidiary's authorized capital stock capitalization or other equity interests by an amount deemed appropriate by E.ON or any intermediate parent company; provided that the consents of all other shareholders, if required by applicable corporate law or the subsidiary's governing documents, have been obtained for the proposed change. Applicants state that, in the event that proxy solicitations are necessary with respect to any corporate reorganization, they will seek Commission approvals as necessary under sections 6(a)(2) and 12(e) of the Act.

G. Payment of Dividends Out of Capital or Unearned Surplus

Applicants request authorization for each of the TBD Subsidiaries, the Retained Nonutility Subsidiaries, the Intermediate Companies and the LG&E Energy Group companies (excluding Utility Subsidiaries) to continue to pay dividends with respect to

²⁹ Applicants state that Financing Entities would be used to issue securities that the parent would be authorized to issue, by order or rule under the Act.

its capital stock, from time to time, out of capital and unearned surplus (to the extent permitted under the corporate law and state or national law applicable in the jurisdiction where each company is organized and the terms of any credit agreements and indentures that restrict the amount and timing of distributions to shareholders), through the Authorization Period. Applicants state that none of the companies will declare or pay any dividend out of capital or unearned surplus unless it: (i) has received excess cash as a result of the sale of some or all of its assets; (ii) has engaged in a restructuring or reorganization; and/or (iii) is returning capital to an associate company.

H. Nonutility Reorganizations

Applicants also request continued authority to restructure, consolidate or otherwise reorganize E.ON's nonutility holdings, including those in the LG&E Energy Group, from time to time, as may be necessary or appropriate in furtherance of the E.ON Group's authorized nonutility activities and to maintain and support investment in the E.ON TBD Subsidiaries pending divestiture.

E.ON requests authorization to acquire, directly or indirectly, the securities of one or more Development Subsidiaries. Applicants request authorization for the Development Subsidiaries to provide management, administrative, project development and operating services to direct or indirect subsidiaries at cost, in accordance with section 13 of the Act and related rules, including rules 90 and 91, to the extent transactions are not authorized or permitted by order or rule.

I. EWG and FUCO Subsidiaries and Reinvestment of Proceeds from the Divestiture of Nonutility Businesses

E.ON requests the Commission to authorize continued investment in an aggregate amount of up to USD 65 billion in EWGs and FUCOs, the Aggregate EWG/FUCO

Financing Limitation.³⁰ Applicants also seek authority to issue and sell up to USD 35 billion of securities to finance EWG and FUCO investments pending the receipt of divestiture proceeds (“Bridge Loans”), so that E.ON may pursue attractive investment opportunities, because the timing of the receipt of divestiture proceeds will not always coincide with the opportunity to invest in additional EWG or FUCO assets.³¹ Applicants state that any issuance of Bridge Loans would count against the E.ON External Limit or the E.ON Short-term Limit, depending on the maturity of the Bridge Loans.

Applicants state that they are able to satisfy Commission requirements for their Aggregate EWG/FUCO Financing Limitation by meeting the statutory requirements of sections 32 and 33 of the Act, as well as the standards provided by rule 53(c).³² Rule 53(c) states that a registered holding company that is “unable to satisfy the requirements of paragraph (a) or (b) of [rule 53] must affirmatively demonstrate that the proposed issue and sale of securities to finance an investment in an EWG, or the guarantee of a security of an EWG: (1) will not have a substantial adverse impact upon the financial integrity of the registered holding company system; and (2) will not have an adverse impact on any

³⁰ See the 2002 Order, note 1 above. In the 2002 Order the Commission authorized an aggregate EWG/FUCO investment by E.ON of USD 65 billion., which consisted of: (i) an initial combined E.ON, Powergen and LG&E Energy aggregate investment in EWGs and FUCOs of USD 4.886 billion, as of December 31, 2001; (ii) reinvestment of TBD Subsidiary divestiture proceeds in an amount up to USD 35 billion; and (iii) an additional amount of EWG/FUCO proposed investment of up to USD 25 billion.

³¹ Applicants state that, upon the receipt of the divestiture proceeds, the Bridge Loans or debt securities with an equivalent principal amount would be retired, redeemed or otherwise paid down.

³² Rule 53 provides that, under certain conditions, the Commission may not make certain adverse findings under sections 7 and 12 of the Act in determining whether to approve a proposal by a registered holding company to issue securities in order to finance an investment in any EWG or to guarantee the securities of any EWG. Rule 53(a) provides a partial safe harbor, which Applicants are not able to utilize. There are no adverse events under rule 53(b).

utility subsidiary of the registered holding company, or its customers, or on the ability of the State commissions to protect such subsidiary or customers.” E.ON states that it is able to satisfy these standards, as it has previously.³³

E.ON states that, as of December 31, 2004, its aggregate investment (as defined in rule 53(a)(1)(i)) in EWGs and FUCOs represents approximately 94.7% of E.ON’s consolidated retained earnings (as defined in rule 53(a)(1)(ii)).³⁴ By the 2002 Order, E.ON was authorized to invest up to 619% of consolidated retained earnings in EWGs and FUCOs. E.ON further states that, if additional EWG/FUCO investments up to the amount of the Aggregate EWG/FUCO Financing Limitation were made, the proposed aggregate investment of USD 65 billion would represent approximately 262% of E.ON’s consolidated retained earnings.³⁵

J. Energy-Related Subsidiaries

E.ON also seeks authorization to acquire and to invest up to USD 10 billion, the

³³ In the 2002 Order, the Commission concluded that E.ON, like other foreign registered holding companies, had significant existing FUCO investments and that, given these pre-registration investments and a showing that the registered holding company system was financially sound, the standards delineated by rule 53(c) were satisfied. The Commission initially addressed similar facts, in a series of earlier cases, authorizing aggregate investments in EWGs and FUCOs of up to 100% of consolidated retained earnings (sometimes referred to as the “100% Orders”). See, e.g., The Southern Company, Holding Co. Act Release No. 26501 (April 1, 1996). Since the 100% Orders, higher EWG and FUCO investment levels have been authorized, in amounts greater than 400% of consolidated retained earnings. See, e.g., Dominion Resources, Inc., Holding Co. Act Release No. 27630 (Dec. 30, 2002) (authority to invest up to 475% of consolidated retained earnings); Emera, Inc., Holding Co. Act Release No. 27445 (Oct. 1, 2001) (authority to invest up to 1000% of consolidated retained earnings).

³⁴ As of December 31, 2004, E.ON’s aggregate investment in EWGs and FUCOs was USD 23.466 billion and E.ON’s consolidated retained earnings were USD 24.771 billion.

³⁵ See note 32 above.

Energy-Related Subsidiary Investment Limit, of the divestiture proceeds during the Authorization Period in certain permitted nonutility businesses located primarily outside of the U.S.

V. Conclusion

Applicants state that the fees, commissions and expenses incurred or to be incurred in connection with the preparation and filing of this Application are estimated not to exceed USD 45,000. In addition, they state that fees, commissions and expenses paid in connection with any specific financing transaction will be within the limits described in the Application.

Applicants state that LG&E is subject to regulation by the Kentucky Public Service Commission (“Kentucky Commission”) and that KU is subject to regulation by the Kentucky Commission, the Virginia State Corporation Commission (“Virginia Commission”) and the Tennessee Regulatory Authority (“Tennessee Commission”). Applicants state that all three State commissions must approve the issuance of long-term debt, but do not regulate the issuance of short-term debt, whether secured or unsecured. None of the states separately regulates the granting of liens on the assets of the public-utility company. Applicants state that the Virginia Commission must, however, approve affiliate transactions involving utilities.³⁶ Applicants state that, except as described

³⁶ Applicants state that, most recently, by an order issued on September 21, 2004, the Virginia Commission approved KU’s participation in the Utility Money Pool. In addition, by an order issued on April 14, 2003 (clarified by order dated April 30, 2003), the Kentucky Commission authorized LG&E to obtain up to USD 300 million in secured intercompany loans from Fidelity. By an order issued on April 14, 2003 (clarified by order dated April 30, 2003), the Kentucky Commission authorized KU to obtain up to USD 250 million in secured intercompany loans from Fidelity. By order dated April 10, 2003, the Virginia Commission also authorized KU’s issuance of up to USD 250 million in secured long-term debt to Fidelity. Similarly, on April 7, 2003, the Tennessee

above, no other state commission, and no federal commission, other than the Commission, has jurisdiction over any of the transactions proposed in this Application.

Due notice of the filing of the Application has been given in the manner prescribed in rule 23 under the Act and no hearing has been requested of, or ordered by, the Commission. Based on the facts in the record, the Commission finds that the applicable standards of the Act and rules are satisfied and no adverse findings are necessary.

IT IS ORDERED that, except as to those matters over which jurisdiction is reserved, the Application is granted and permitted to become effective immediately, subject to the terms and conditions prescribed in rule 24, provided that E.ON will continue to provide rule 24 certificates on a semiannual basis, within 180 days after the end of E.ON's fiscal year and within 90 days of the end of its second fiscal quarter, and the rule 24 certificates and certain other forms, as described below, will contain the following information:

A. Rule 24 certificates shall state and/or provide:

1. The sales of common stock, preferred securities or equity-linked securities by E.ON and the purchase price per share and the market price per share at the date of the agreement of sale, as well as a separate statement of the amount issued during the reporting period, for each type of issued securities (common stock, preferred securities or equity-linked securities).

Commission authorized KU to borrow from Fidelity up to USD 250 million on a secured basis.

2. If E.ON common stock has been transferred to a seller as consideration for the assets or securities of a company being acquired, the number of shares so issued, the value per share and whether the shares are restricted in the hands of the acquirer.

3. The amount of guarantees issued during the reporting period by E.ON, the name of the beneficiary of the guarantee and the terms and purpose of the guarantee.

4. The amount and terms of any E.ON indebtedness issued during the reporting period, as well as a separate statement of the amount of indebtedness issued during the Authorization Period.

5. E.ON's aggregate investment, as defined in rule 53, in EWGs and FUCOs as of the end of the reporting period in U.S. dollars and as a percentage of E.ON's consolidated retained earnings, a calculation of the amount remaining under the EWG/FUCO investment authorization, and a description of significant EWG/FUCO investments during the reporting period.

6. A list showing the current aggregate investment under rule 53, for each major FUCO market group and other EWG/FUCO holdings.

7. The ratio of investment in EWGs/FUCOs to E.ON's total consolidated capitalization, the market-to-book ratio of E.ON's common stock, and an analysis of the growth in consolidated retained earnings, segregating total earnings growth attributable to EWG/FUCO investments from that attributable to other E.ON businesses.

8. Revenues and adjusted EBIT (earnings before interest and taxes), as reported by E.ON in its Form 20-F, for each FUCO market group for the six or twelve months ending as of the end of the reporting period, as appropriate.

9. A list of the securities issued by the Intermediate Companies during the reporting period, including principal amount, interest rate, term, number of shares and aggregate proceeds, as applicable, with the acquiring company identified.

10. The amount and terms of any short-term debt issued by any Utility Subsidiary, including the net money pool balances in the Utility Money Pool as of the end of the reporting period. In addition, a list of the deposits and withdrawals of each company participating in the Utility Money Pool during the reporting period will be available to the Commission upon request.

11. The amount of any dividends paid out of capital and unearned surplus by any of the TBD Subsidiaries, the Retained Nonutility Subsidiaries, the Intermediate Companies and the LG&E Energy Group companies (excluding the Utility Subsidiaries), identifying the paying and receiving company.

12. A table showing, as of the end of the reporting period, the U.S. dollar and percentage components of the capital structures of E.ON, LG&E Energy, LG&E and KU.

13. A list of borrowings by LG&E Energy Group companies from associated companies outside the LG&E Energy Group, as of the end of the reporting period. Information regarding the benchmarking process for each such borrowing, including quotes from at least three other sources of funds (with rates and terms) and demonstrating how the Best Rate Method was applied to the borrowings, will be available to the Commission upon request.

14. If any consolidated company is a Variable Interest Entity (“VIE”), as that term is used in FASB Interpretation 46R, Consolidation of Variable Interest Entities,

E.ON will provide a description of the nature, purpose, size and activities of the VIE in the notes of E.ON's Form 20-F.

15. As applicable, all amounts shall be expressed in U.S. dollars and presented in accordance with U.S. GAAP or the reconciliation requirements of Form 20-F.

16. The rule 24 certificates, which will include information with respect to all securities issuances exempt under rule 52, shall be in lieu of any separate certificates required on Form U-6B-2 under rule 52.

B. With respect to E.ON's annual Form U5S filing, it will continue to provide the following supplemental information:

1. The amount of any tax credit or loss carryover generated during the preceding taxable year by E.ON US Investments: (a) as a result of interest expense on indebtedness incurred in connection with the acquisition of LG&E Energy, or (b) as the result of any other item of cost or expense;

2. A description of how the income tax credit and/or income tax liability was calculated and allocated to all companies included in the consolidated tax return, showing all of E.ON US Investments' interest costs and any assumptions used in the calculation.

3. A description of how any funding is effected through each Intermediate Company.

4. A description of the amount and character of any payments made by each Intermediate Company to any other E.ON Group company during the reporting period.

5. A statement that the allocation of tax credits and liabilities was conducted in accordance with the tax allocation agreement in effect and filed as an exhibit to the Form U5S.

C. A report in this filing, describing all material circumstances giving rise to the event, shall be filed with the Commission within five business days after the occurrence of any of the following:

1. With respect to E.ON, LG&E Energy or either of the Utility Subsidiaries, (a) a 10% or greater decline in common stock equity, as calculated under U.S. GAAP, since the end of the last semi-annual reporting period, or (b) the capitalization of any of those companies falls below 30% common stock equity.
2. A default by E.ON or either of the Utility Subsidiaries on any debt obligation in principal amount equal to or exceeding USD 10 million, if the default permits the holder of the debt obligation to demand repayment.
3. Any event described in rule 53(b) under the Act.
4. An NRSRO has downgraded the senior debt ratings of E.ON or either of the Utility Subsidiaries by one full rating level (e.g., from A to BBB); or
5. Any event that would have a material adverse effect on the ability of E.ON or any of its subsidiaries to comply, on an ongoing basis, with any condition or requirement contained in the Commission's order granting this Application.

IT IS FURTHER ORDERED that jurisdiction is reserved over (1) issuance of any securities that fail to meet the Investment Grade Condition; (2) with respect to (a) the E.ON External Limit, USD 20 billion, and (b) the E.ON Short-term Limit, USD 18 billion; and (3) issuances of long-term debt, short-term debt, preferred stock, preferred securities and equity-linked securities by E.ON, LG&E Energy and the Utility Subsidiaries, where the cost of capital is in excess of the stated limits, but is not more than competitive market rates available at the time of issuance for securities having the

same or reasonably similar terms and conditions issued by similar companies of reasonably comparable credit quality.

For the Commission by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland
Deputy Secretary